

AMENDED IN ASSEMBLY MAY 18, 2006

AMENDED IN ASSEMBLY MAY 15, 2006

AMENDED IN ASSEMBLY APRIL 19, 2006

AMENDED IN ASSEMBLY MARCH 30, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1871

Introduced by Assembly Members Benoit and Montanez
(Principal coauthor: Assembly Member Garcia)
(Principal coauthor: Senator Hollingsworth)

January 18, 2006

An act to add and repeal Section 53121 of the Government Code, and to amend, ~~repeal, and add~~ Section 2891 ~~to~~ of the Public Utilities Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1871, as amended, Benoit. Public safety: law enforcement communications.

Existing law establishes various programs relating to law enforcement. Existing law requires every public agency to establish and have in operation a telephone system that automatically connects a person dialing the digits "911" to an established public safety answering point, as specified. Existing law provides that no telephone corporation shall make subscriber information available to others, except as specified.

This bill would, until January 1, 2010, require telecommunications service providers to provide law enforcement agencies with customer information under exigent circumstances, as specified. This bill would

require telecommunications service providers to maintain all requests from law enforcement agencies for customer information for at least 3 years and provide that after a release of customer information to a law enforcement agency a telecommunications provider shall be entitled to obtain from the agency all legal documents, as specified, that formed the basis for the agency's request. This bill would specify that information obtained pursuant to these provisions shall be used solely for the purpose of rendering emergency aid by law enforcement to the customer, as specified.

This bill would also require the Public Utilities Commission to prepare and present a report to the Legislature, on or before March 1, 2009, regarding the operation and effect of these provisions, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53121 is added to the Government
2 Code, to read:
3 53121. (a) Notwithstanding any other provision of law, each
4 request by a law enforcement agency to a telecommunication
5 service provider for customer information that is made under
6 exigent circumstances, shall include, at minimum, all of the
7 following information:
8 (1) The name, title, and badge number of the law enforcement
9 officer.
10 (2) The office location and telephone number for the officer.
11 (3) The name and telephone number of the officer's
12 supervisor.
13 (4) The assertion by the officer that an exigent circumstance
14 exists.
15 (5) The customer's telephone number or other information that
16 allows the service provider to determine that the individual about
17 whom the request is made is a customer.
18 (b) If all of the information listed in subdivision (a) is
19 provided by the law enforcement agency to the
20 telecommunications service provider, the telecommunications
21 provider shall provide the law enforcement agency with the
22 requested customer information upon verification of the

1 information with the officer's supervisor. No telecommunications
2 service provider, or official or employee thereof, shall be subject
3 to liability when it acts in a reasonable manner upon receiving
4 the information required by subdivision (a).

5 (c) After the release of the requested information by the
6 telecommunications service provider to a law enforcement
7 agency, the telecommunications service provider shall be entitled
8 to obtain from the law enforcement agency all legal documents
9 that formed the basis for the agency's request, including any
10 customer consent obtained by the agency, unless those
11 documents are prohibited from being provided by other
12 provisions of law or by court order.

13 (d) All telecommunications service providers shall maintain
14 for a period of no less than three years all requests from public
15 safety agencies for customer information that are made under
16 exigent circumstances.

17 (e) For purposes of this section, exigent circumstance means a
18 reasonable belief by the law enforcement officer that a situation
19 exists that involves immediate danger of death or serious bodily
20 injury to any person.

21 (f) For purposes of this section, telecommunications service
22 provider has the same meaning as the term "telephone
23 corporation," as defined in Section 234 of the Public Utilities
24 Code.

25 (g) Information obtained as the result of a request pursuant to
26 this section shall be used solely for the purpose of rendering
27 emergency aid by a law enforcement agency to the customer
28 during the exigent circumstances forming the basis of the
29 request.

30 (h) This section shall remain in effect only until January 1,
31 2010, and as of that date is repealed, unless a later enacted
32 section, that is enacted before January 1, 2010, deletes or extends
33 that date.

34 SEC. 2. Section 2891 of the Public Utilities Code is amended
35 to read:

36 2891. (a) No telephone or telegraph corporation shall make
37 available to any other person or corporation, without first
38 obtaining the residential subscriber's consent, in writing, any of
39 the following information:

(1) The subscriber's personal calling patterns, including any listing of the telephone or other access numbers called by the subscriber, but excluding the identification to the person called of the person calling and the telephone number from which the call was placed, subject to the restrictions in Section 2893, and also excluding billing information concerning the person calling which federal law or regulation requires a telephone corporation to provide to the person called.

(2) The residential subscriber's credit or other personal financial information, except when the corporation is ordered by the commission to provide this information to any electrical, gas, heat, telephone, telegraph, or water corporation, or centralized credit check system, for the purpose of determining the creditworthiness of new utility subscribers.

(3) The services which the residential subscriber purchases from the corporation or from independent suppliers of information services who use the corporation's telephone or telegraph line to provide service to the residential subscriber.

(4) Demographic information about individual residential subscribers, or aggregate information from which individual identities and characteristics have not been removed.

(b) Any residential subscriber who gives his or her written consent for the release of one or more of the categories of personal information specified in subdivision (a) shall be informed by the telephone or telegraph corporation regarding the identity of each person or corporation to whom the information has been released, upon written request. The corporation shall notify every residential subscriber of the provisions of this subdivision whenever consent is requested pursuant to this subdivision.

(c) Any residential subscriber who has, pursuant to subdivision (b), given written consent for the release of one or more of the categories of personal information specified in subdivision (a) may rescind this consent upon submission of a written notice to the telephone or telegraph corporation. The corporation shall cease to make available any personal information about the subscriber, within 30 days following receipt of notice given pursuant to this subdivision.

(d) This section does not apply to any of the following:

1 (1) Information provided by residential subscribers for
2 inclusion in the corporation's directory of subscribers.

3 (2) Information customarily provided by the corporation
4 through directory assistance services.

5 (3) Postal ZIP Code information.

6 (4) Information provided under supervision of the commission
7 to a collection agency by the telephone corporation exclusively
8 for the collection of unpaid debts.

9 (5) Information provided to an emergency service agency
10 responding to a 911 telephone call or any other call
11 communicating an imminent threat to life or property.

12 (6) Information provided to a law enforcement agency in
13 response to lawful process.

14 (7) Information which is required by the commission pursuant
15 to its jurisdiction and control over telephone and telegraph
16 corporations.

17 (8) Information transmitted between telephone or telegraph
18 corporations pursuant to the furnishing of telephone service
19 between or within service areas.

20 (9) Information required to be provided by the corporation
21 pursuant to rules and orders of the commission or the Federal
22 Communications Commission regarding the provision over
23 telephone lines by parties other than the telephone and telegraph
24 corporations of telephone or information services.

25 (10) The name and address of the lifeline customers of a
26 telephone corporation provided by that telephone corporation to
27 a public utility for the sole purpose of low-income ratepayer
28 assistance outreach efforts. The telephone corporation receiving
29 the information request pursuant to this paragraph may charge
30 the requesting utility for the cost of the search and release of the
31 requested information. The commission, in its annual
32 low-income ratepayer assistance report, shall assess whether this
33 information has been helpful in the low-income ratepayer
34 assistance outreach efforts.

35 (11) Information provided in response to a request pursuant to
36 Section 53121 of the Government Code or subdivision (a) of
37 Section 530.8 of the Penal Code.

38 (e) Every violation is a grounds for a civil suit by the
39 aggrieved residential subscriber against the telephone or

1 telegraph corporation and its employees responsible for the
2 violation.

3 (f) For purposes of this section, “access number” means a
4 telex, teletex, facsimile, computer modem, or any other code
5 which is used by a residential subscriber of a telephone or
6 telegraph corporation to direct a communication to another
7 subscriber of the same or another telephone or telegraph
8 corporation.

9 ~~(g) This section shall remain in effect only until January 1,~~
10 ~~2009, and as of that date is repealed, unless a later enacted~~
11 ~~statute, that is enacted before January 1, 2009, deletes or extends~~
12 ~~that date.~~

13 ~~SEC. 2.5. Section 2891 is added to the Public Utilities Code,~~
14 ~~to read:~~

15 ~~2891. (a) No telephone or telegraph corporation shall make~~
16 ~~available to any other person or corporation, without first~~
17 ~~obtaining the residential subscriber’s consent, in writing, any of~~
18 ~~the following information:~~

19 ~~(1) The subscriber’s personal calling patterns, including any~~
20 ~~listing of the telephone or other access numbers called by the~~
21 ~~subscriber, but excluding the identification to the person called of~~
22 ~~the person calling and the telephone number from which the call~~
23 ~~was placed, subject to the restrictions in Section 2893, and also~~
24 ~~excluding billing information concerning the person calling~~
25 ~~which federal law or regulation requires a telephone corporation~~
26 ~~to provide to the person called.~~

27 ~~(2) The residential subscriber’s credit or other personal~~
28 ~~financial information, except when the corporation is ordered by~~
29 ~~the commission to provide this information to any electrical, gas,~~
30 ~~heat, telephone, telegraph, or water corporation, or centralized~~
31 ~~credit check system, for the purpose of determining the~~
32 ~~creditworthiness of new utility subscribers.~~

33 ~~(3) The services which the residential subscriber purchases~~
34 ~~from the corporation or from independent suppliers of~~
35 ~~information services who use the corporation’s telephone or~~
36 ~~telegraph line to provide service to the residential subscriber.~~

37 ~~(4) Demographic information about individual residential~~
38 ~~subscribers, or aggregate information from which individual~~
39 ~~identities and characteristics have not been removed.~~

1 ~~(b) Any residential subscriber who gives his or her written~~
2 ~~consent for the release of one or more of the categories of~~
3 ~~personal information specified in subdivision (a) shall be~~
4 ~~informed by the telephone or telegraph corporation regarding the~~
5 ~~identity of each person or corporation to whom the information~~
6 ~~has been released, upon written request. The corporation shall~~
7 ~~notify every residential subscriber of the provisions of this~~
8 ~~subdivision whenever consent is requested pursuant to this~~
9 ~~subdivision.~~

10 ~~(c) Any residential subscriber who has, pursuant to~~
11 ~~subdivision (b), given written consent for the release of one or~~
12 ~~more of the categories of personal information specified in~~
13 ~~subdivision (a) may rescind this consent upon submission of a~~
14 ~~written notice to the telephone or telegraph corporation. The~~
15 ~~corporation shall cease to make available any personal~~
16 ~~information about the subscriber, within 30 days following~~
17 ~~receipt of notice given pursuant to this subdivision.~~

18 ~~(d) This section does not apply to any of the following:~~

19 ~~(1) Information provided by residential subscribers for~~
20 ~~inclusion in the corporation's directory of subscribers.~~

21 ~~(2) Information customarily provided by the corporation~~
22 ~~through directory assistance services.~~

23 ~~(3) Postal ZIP Code information.~~

24 ~~(4) Information provided under supervision of the commission~~
25 ~~to a collection agency by the telephone corporation exclusively~~
26 ~~for the collection of unpaid debts.~~

27 ~~(5) Information provided to an emergency service agency~~
28 ~~responding to a 911 telephone call or any other call~~
29 ~~communicating an imminent threat to life or property.~~

30 ~~(6) Information provided to a law enforcement agency in~~
31 ~~response to lawful process.~~

32 ~~(7) Information which is required by the commission pursuant~~
33 ~~to its jurisdiction and control over telephone and telegraph~~
34 ~~corporations.~~

35 ~~(8) Information transmitted between telephone or telegraph~~
36 ~~corporations pursuant to the furnishing of telephone service~~
37 ~~between or within service areas.~~

38 ~~(9) Information required to be provided by the corporation~~
39 ~~pursuant to rules and orders of the commission or the Federal~~
40 ~~Communications Commission regarding the provision over~~

1 telephone lines by parties other than the telephone and telegraph
2 corporations of telephone or information services.

3 ~~(10) The name and address of the lifeline customers of a~~
4 ~~telephone corporation provided by that telephone corporation to~~
5 ~~a public utility for the sole purpose of low-income ratepayer~~
6 ~~assistance outreach efforts. The telephone corporation receiving~~
7 ~~the information request pursuant to this paragraph may charge~~
8 ~~the requesting utility for the cost of the search and release of the~~
9 ~~requested information. The commission, in its annual~~
10 ~~low-income ratepayer assistance report, shall assess whether this~~
11 ~~information has been helpful in the low-income ratepayer~~
12 ~~assistance outreach efforts.~~

13 ~~(11) Information provided in response to a request pursuant to~~
14 ~~subdivision (a) of Section 530.8 of the Penal Code.~~

15 ~~(e) Every violation is a grounds for a civil suit by the~~
16 ~~aggrieved residential subscriber against the telephone or~~
17 ~~telegraph corporation and its employees responsible for the~~
18 ~~violation.~~

19 ~~(f) For purposes of this section, “access number” means a~~
20 ~~telex, teletext, facsimile, computer modem, or any other code~~
21 ~~which is used by a residential subscriber of a telephone or~~
22 ~~telegraph corporation to direct a communication to another~~
23 ~~subscriber of the same or another telephone or telegraph~~
24 ~~corporation.~~

25 ~~(g) This section shall become operative on January 1, 2010.~~

26 SEC. 3. On or before March 1, 2009, the Public Utilities
27 Commission shall prepare and present a report to the Legislature
28 regarding the operation and effect of this act, including
29 recommendations as to whether this act should be renewed as
30 enacted, or revised, following consultation with representatives
31 of the telephone corporations providing service in the state, and
32 specifically those that have received requests for information
33 pursuant to this act, law enforcement agencies, and reputable
34 consumer advocacy and privacy organizations.